



Chapter 2

Pre-Contract Planning

Defining the Need

In the initial stage of contracting for client services, contract managers should define the need for client services. Defining the need contributes to effective prioritization of the funding required, a common understanding within the agency of the need, and the identification of the nature of the work and the level of service required to meet the need. Defining the need also contributes to the determination of how performance and quality will be measured.

Deciding to Contract

Generally, state agencies responsible for client service delivery have a combination of both broad and specific authority to contract for these services. Contracting may also be mandated in the authorizing legislation for a specific program or service.

In deciding whether to contract for client services, the following may be considered:

- ⌘ Does the state agency or program have the general or specific legal authority to contract for the services?
- ⌘ Does the state agency have sufficiently qualified and available staff to provide the service to clients?
- ⌘ Does the state agency have adequate resources to administer the contracting process throughout the contract cycle?
- ⌘ Does contracting provide the greatest benefit to the state and/or the clients?
- ⌘ Are qualified contractors available to provide the client service?
- ⌘ Does contracting best serve the public interest?

Funding Availability

One of the most important considerations to be addressed in deciding to contract is the availability of sufficient funding to cover the cost of services. Adequate funding based on in-house budget projections must be verified by the contract manager. If funding is inadequate or non-existent, a contract cannot be awarded.

When funding is available, the type of appropriation should be considered. For state agencies whose funds are appropriated for a fiscal year or biennial period, those funds cannot be disbursed for work performed in a subsequent period.

In addition to the identified costs associated with contracting for client services, contract managers should also consider overhead expenses, such as costs for staff involvement

with contract development, contract management, monitoring and internal fiscal processes, training, legal review of the contract, and dispute resolution.

Cost/Benefit Analysis

Before awarding a client service contract, contract managers should assess the need for contracting versus the cost of obtaining the desired results. In order to complete a cost/benefit analysis, contract managers should define what is expected from a contract to achieve the identified benefits. Issues to consider include:

- ⌘ What level of expertise is needed?
- ⌘ When is the service required?
- ⌘ How will the contractor's services meet the need?
- ⌘ Where is the service to be delivered?
- ⌘ What products, reports, etc., if any, are to be delivered?
- ⌘ What level of contract management and oversight is necessary?

This cost/benefit analysis enables agency management to determine if a contract for client services is necessary and to identify the specific benefits that will be achieved.

The cost of contracting for services is dependent on a combination of factors such as:

- ⌘ Scope and depth of services
- ⌘ Urgency for delivery
- ⌘ Level of expertise required
- ⌘ Availability of other qualified contractors
- ⌘ Reputation and professional stature of the contractor
- ⌘ Risk associated with the service
- ⌘ Market rate for service

Potential benefits of contracting for services may include:

- ⌘ Savings to state government and taxpayers
- ⌘ Increase in services to clients
- ⌘ Expertise in areas not currently available
- ⌘ Decrease in workload and equipment requirements
- ⌘ Ability to meet geographic needs

Available Public Resources

After the client service is defined, contract managers should determine the availability of qualified public resources before considering the use of contracted resources. Technical expertise may be available from a variety of sources, such as:

- ⌘ Employees within the agency.
- ⌘ Other state, federal, or local agencies that provide similar services, have encountered similar needs, or have similar functional responsibilities.
- ⌘ Other Washington State agencies with specialized expertise.

Legal Constraints to Contracting

Certain legal requirements should be carefully considered before contracting for client services, including whether state employees have traditionally performed the client service work, whether a contract would replace current classified employees (RCW 41.06.380), or whether there are any applicable collective bargaining agreements.

Contract managers should first review agency policy and procedures, then may want to seek legal advice from the Office of the Attorney General regarding these or similar situations where legal requirements are uncertain.

Contracting with Current or Former State Employees

Specific restrictions apply to contracting with current or former state employees. Contract managers should familiarize themselves with the requirements of Chapter 42.52 RCW prior to entering into any type of contracts.

Independent Contractor Relationship

An essential criterion in the use of client services is the independent entrepreneurial relationship between the contractor and the agency. Agencies could potentially be subject to payment of fines by the Internal Revenue Service (IRS) and the Social Security Administration (SSA), if a determination of "employee" status is made regarding the agency's contracts.

Federal employment tax regulations essentially convey that every individual is an employee, if, under the usual common law rules, the relationship between the individual and the person for whom services are performed is the legal relationship of employee/employer. Generally, such a relationship is considered to exist when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished, but also as to the details and means by which the result is accomplished. It is not necessary that the employer directs or controls the manner in which the services are performed; rather it is sufficient that the employer has the right to do so.

After consulting with your own agency staff, contract managers may want to consider consulting with the Office of the Attorney General or the OFM Accounting Division to ensure this determination is made correctly.

Fiscal Considerations

Contract managers should determine the appropriate method of compensation and billing prior to entering into a contract. It is recommended that agency staff consult with agency fiscal and auditing staff if there are questions regarding fiscal considerations of contracts.

General Fiscal Principles

State agencies should pay no more than a reasonable and fair price for client services.

- ⌘ Payment to the contractor should be made according to the terms of the contract. A clear statement of work should be developed and should directly relate to the method of compensation in the contract.
- ⌘ The contract should identify the source and amount of funds. If the source of funds is federal, federal rules and regulations must be followed and may supersede state rules and regulations. Consult applicable federal regulations as necessary.
- ⌘ Contracts should specify that payment will **not** be made for the same or similar services for the same client more than once (no duplicate payments). The costs of delivering a service or set of services may be distributed by the contractor to more than one contract or funding source. As a result, state agencies should consider including provisions in the contract that hold the contractor liable for requesting double payment for the same unit of work.
- ⌘ Contractors should have accounting methods and systems that are describable and auditable, as applicable to the circumstances. Contractors should comply with accounting measures and principles appropriate to the contractor's type of entity and as identified in the contract.
- ⌘ State agencies should use the accounting methods and systems published in the State Administrative and Accounting Manual (www.ofm.wa.gov/policy/saamintro.htm)
- ⌘ Payments made under client service contracts should be necessary and reasonable for the proper and efficient management of the client service program. The costs should be directly attributable to the specific work or the normal administration of the contract.
- ⌘ Payments made under client service contracts should be adequately documented and supported by appropriate accounting records maintained by both the state agency and the contractor.
- ⌘ Financial reporting procedures and requirements should be clearly identified in the contract to ensure that contractors are able to record expenses by funding source.
- ⌘ State agencies should pay contractors for services in a timely manner (RCW 39.76.010).

Federally Funded Contracts

Contracts supported with federal funds, whether in whole or in part, are subject to federal requirements. Such requirements may be the result of federal statutory provisions, administrative regulations adopted by federal agencies, administrative guidelines distributed by federal agencies or contract award provisions.

There are basic federal rules that apply to virtually all expenditures of federal awards. Each federal agency and the U.S. Office of Management and Budget (OMB) publish these rules. These include:

Uniform Administrative Requirements

State and Local Governments (including recognized Indian entities)

1. Grants Management Common Rule adopted by federal agency Code of Federal Regulation (CFR)
2. OMB Circular A-102

Institutions of Higher Education, Hospitals and Other Nonprofit Organizations

1. Uniform Administrative Requirements adopted by federal agency CFR
2. OMB Circular A-110

For-Profit Organizations

1. Administrative Requirements adopted by federal agency CFR

Cost Principles Requirements

State and Local Governments (including recognized Indian entities)

1. OMB Circular A-87

Educational Institutions

1. OMB Circular A-21

Nonprofit Organizations

1. OMB Circular A-122

Audit Requirements

All Nonfederal Entities

1. Audit common rule adopted by federal agency CFR
2. OMB Circular A-133, including Appendix B – Compliance Supplement

Federal agency regulations (Code of Federal Regulations or CFR) and OMB regulations (Circulars) can be accessed on the Internet at:

CFRs – <http://www.access.gpo.gov/nara/cfr>

OMB Circulars – <http://www.whitehouse.gov/OMB/circulars>

The federal agency regulations and the OMB Circulars are routinely updated. Contract managers of contracts involving federal funds are encouraged to stay abreast of such changes by consulting with fiscal staff or other individuals that follow federal requirement amendments.

When federal funds are involved, a determination should be made before a client service contract is written as to whether the contractor is a subrecipient or vendor. The administrative and management requirements for each differ significantly. The correct designation ensures compliance with applicable federal regulations and determines whether an audit is required of the contractor.

A subrecipient is a non-federal entity that expends federal funds received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program.

A vendor is a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a federal program. See the [OFM State Administrative and Accounting Manual \(SAAM\), section 50.30](#) for further guidance about the subrecipient/vendor determination and [OMB Circular A-133 Audits of States, Local](#)

[Governments, and Non-Profit Organizations, Subpart B-Audits, .210 Subrecipient and vendor determinations.](#) Contracts should be clearly written to support the determination of subrecipient or vendor status.

A **subrecipient** may:

- ≠# Determine who is eligible to receive federal assistance.
- ≠# Have its performance measured against whether the objectives of the federal program are met.
- ≠# Have responsibility for programmatic decision-making.
- ≠# Have responsibility for adherence to applicable federal program compliance requirements.
- ≠# Use federal funds to carry out a program of the organization as compared to providing goods or services.

A **vendor**:

- ≠# Provides the goods or services within normal business operations.
- ≠# Provides similar goods or services to many different purchasers.
- ≠# Operates in a competitive environment.
- ≠# Provides goods or services that are ancillary to the operation of the federal program.
- ≠# Is generally not subject to compliance requirements of the federal program.

In some instances, a contractor could be a subrecipient for one state agency and a vendor for another. A contractor could also be a subrecipient for one program within an agency, and a vendor for another program within the same agency.

Method of Compensation

Prior to the contract award, the services should be analyzed to determine the most effective compensation method (i.e., cost reimbursement, fee for service, fixed price, or performance based). Ideally, the method selected will be one which best ensures delivery of services, encourages efficiencies and effectiveness of service, and provides the best value to state agencies and clients. In some cases, the method of compensation may include a mix of payment methods. For example, the method of compensation may be based primarily on attainment of specific performance targets but could also include a periodic fixed or lump sum payment after completion of specific work to ensure the contractor has funding sufficient to meet core- operating requirements.

If subject to negotiation, proposed contractor budgets or rates of reimbursement should be reviewed to ensure that the level of compensation is reasonable and necessary to accomplish agency objectives. Agencies should consider whether there is a reasonable correlation between the quality of service provided and the costs of providing the service as identified by the contractor.

The method of compensation selected may have an impact on the level and type of monitoring activities required to ensure that the state receives the services contracted for, and where specified, the funds are used as intended. Contracts with a cost

reimbursement compensation method or contracts that use multiple funding sources are likely to require a higher level of monitoring than contracts using other payment methods as they may pose a higher risk because the costs that are reimbursed may not be eligible or necessary.

Client service contracts should identify and document the method of compensation that will be used to pay the contractor for delivery of services.

Typical methods of compensation include:

Cost reimbursement: This type of contract or method of compensation has a higher risk for the state agency because it reimburses the contractor for all costs incurred under terms of the contract. To prevent overpayment, allowable cost provisions should be clearly identified in the contract. Contract managers may want to consider including in the contract a provision for a maximum allowable compensation level for the contract period and a budget. These provisions can help to ensure the contractor is not overpaid and that only appropriate costs are reimbursed.

When the contractor will be paid on a cost reimbursement basis and will be using funding sources in addition to those provided under the state agency's contract, contract managers may want to consider requesting from the contractor a description of its methodology for assigning costs to each funding source. Subsequent financial reports should be sufficient to track revenue and expenses by funding source. When multiple funding sources are used, it may be necessary to work with the contractor to ensure the contractor complies with the contract terms and that the appropriate documentation is maintained so that allowable costs are only billed once to the state agency. Guidance should be provided to the contractor, prior to the contract start date, for any special compliance, documentation, or other requirements that are related to the use of multiple funding sources.

Cost reimbursement contracts generally require more fiscal pre-planning and monitoring than contracts employing other methods of compensation.

Fee for service: The contractor receives a set fee for delivering a defined unit of service, based on a rate authorized by the contract. The contract may or may not specify the maximum allowable compensation. The fee may be based on an established rate structure set by law, regulation, or policy, or may be based on cost information provided by the contractor during a competitive solicitation or contract negotiation. Fee for service contracts allow many contractors to provide similar required services. With a diverse group of contractors, continued service levels are ensured. This also allows for flexibility in workload changes. The contractor primarily assumes the risk because the agency does not pay if the service is not performed. An example of this compensation method is the court appointed Guardian ad Litem services. The state agency pays the contractor an hourly rate for each hour of service delivered. Generally, no other miscellaneous expenses are authorized under the contract.

Fixed price or lump sum: The contractor receives a set fixed amount or lump sum payment based on terms established in the contract. Typically, payment is tied to completion of agreed upon performance achievements. Other alternatives are possible, such as progress payments made to compensate for activities conducted over the specific period of the contract. This type of contract should generally establish a maximum allowable level of compensation. With this method of compensation, the agency does not pay if specific terms in the contract are not met and thus the risk is placed on the contractor. This allows for a more summarized form of reporting from contractor to agency. An example of this type of method of compensation would be a contract to increase the pool of licensed day care providers for special needs children. The state agency pays the contractor a set fixed amount for each successful license attained. Generally, no miscellaneous expenses are authorized under the contract.

Performance based: These contracts are based on attainment of specific outcomes (e.g., placement of a client into unsubsidized employment). The rate of compensation is generally negotiated based on cost information provided by the contractor. In some cases, the rate may be set by agency policy or other means. Generally, performance based contracts identify the maximum allowable compensation. This allows the agency to define the quality of services in terms of performance standards and pay accordingly. Performance based contracts differ from fee for service or fixed price contracts in that if the quantifiable quality of service is low, the payment may be reduced or withheld. This requires a higher level of reporting from contractor to agency. The contractor primarily assumes the risk because the agency does not pay if performance levels are not met. An example of this type of method of compensation is the placement of a client into unsubsidized employment for six months. The contractor is paid after the successful achievement of performance expectations. In this case, placing the client is not enough. The agency only pays when the client has been placed for six months in non-subsidized employment. Generally, no miscellaneous expenses are authorized under the contract. For federally funded contracts, be aware that there may be some requirements to reimburse actual costs.

The method used to determine payment to the contractor should ensure that the state receives full value for the money, and the “general principles” listed earlier in this section are considered. Cost settlement procedures should be established by state agencies to ensure they have a process for recovering costs that have been identified in an audit of the contractor as not allowed under the contract. Contract managers should consult with their accounting or auditing staff and with the Office of the Attorney General for further guidance.

Audits

Contract managers should evaluate the coverage provided by existing and anticipated audits prior to entering into a contract. Additional audit requirements may be identified and written into the contract. When this is not practical, generic language should be included in the contract indicating an audit may be required. See [Chapter 6 Auditing](#) for further information.

Contractor Selection

Current law specifically exempts client service contracts from the laws governing personal services contracts (RCW 39.29.040(6)). However, it is advisable to use the widest selection process possible for the services being contracted. Federal funding rules and internal agency policies may require a competitive process for certain contracts. Additionally, Governor's Directive 98-01 directs that the pool of potential contractors be broadened to ensure that those qualified are included and given fair consideration in state public contracting.

Agencies need flexibility in selecting contractors to effectively and efficiently meet the needs of state clients. Contract managers may, therefore, select client service contractors by using procurement methods most appropriate to their needs. In general, the higher the dollar amount of the potential contract, the longer its duration, and the more complex the services, the greater the need for formality and competition.

Procurement means the method used to select contractors for award and includes both competitive and noncompetitive methods.

Selecting an appropriate procurement method is one means of ensuring the state receives the best value, balancing cost with the greatest overall benefit for its clients. The following characteristics chosen should be considered when selecting the procurement method:

- J · Generates the best quality and economic value.
- J · Provides the greatest long-term benefit to clients receiving services.
- J · Minimizes disruption of services to clients.
- J · Promotes the participation of capable and responsible contractors.
- J · Allows multiple, interested, and qualified providers to be considered.
- J · Encourages competition where practical.
- J · Is timely and cost effective.
- J · Is fair, objective, and ensures equal treatment of prospective contractors.
- J · Minimizes the burden on administrative resources.
- J · Supports the achievement of required contract performance outcomes.

Preparing for the Solicitation Process

Continually updating one's knowledge of the client service provider marketplace provides valuable information once a solicitation process begins. Adequate analysis of contractor past performance and other relevant factors generally results in contracts with providers who are responsible and well qualified.

Whether to pre-qualify potential contractors is a judgment call based on need, experience, and financial considerations. Having a "short list" of client service providers under contract is one way to quickly meet the needs of vulnerable clients. However, qualifications change, and these lists must be routinely updated to ensure participation is as broad as possible. Pre-qualification practices can pose a barrier to new persons or organizations seeking entry into the industry. For these reasons, pre-qualification contracts should be used judiciously.

Potential contractors may be located using many sources:

- J · Agency referrals
- J · Client referrals
- J · Newspaper ads
- J · Trade journals and periodicals
- J · Office of Minority and Women's Business Enterprises directory
- J · Professional societies and associations
- J · Telephone directories
- J · Responses to previous solicitations
- J · Other entities that may have used contractors for the same or similar services
- J · Community resources

Using State Certified Minority- and Women-Owned Firms

Chapter 39.19 RCW requires agencies and educational institutions to ensure that businesses owned and controlled by minorities (MBEs) and women (WBEs) are afforded the maximum practical opportunity to contract directly with the state, and/or to subcontract with the state and to meaningfully participate in state contracting. OMWBE may be contacted at (360) 753-9693 for information or assistance in locating certified minority- or women-owned businesses. The directory of certified women and minority-owned businesses is updated at least quarterly and provided to agencies either via hard copy, on disk or on the Internet at <http://www.omwbe.wa.gov/>.

Competitive Procurement

Reasons to use a competitive process include:

- ≠ Federal or state law requires competition.
- ≠ Competition generally benefits the process.
- ≠ To avoid favoritism and promote fairness.
- ≠ Input from providers is important.
- ≠ Competition is in the public interest.

When competition is deemed appropriate in contracting for client services, the competitive process may be conducted informally or formally. Informal competition may include telephone solicitation, with responses recorded on a standardized form. It may also consist of email and/or facsimile transmissions describing the services needed, proposed schedule, request for information on qualifications and fees, and due date and time for submission of a response. Written solicitations help minimize the chance for error and missed communication, and provide documentation of the process.

When issued, solicitation documents should be distributed to a reasonable number of contractors. A "reasonable" number is a judgment call that is determined by the characteristics of the procurement, i.e. complexity, cost, and number of available qualified contractors. Enough contractors should be solicited to assure fair and open competition and to increase the likelihood of receiving a reasonable number of responses.

Complex client services may warrant formal solicitation including advertising on agency web sites, in daily newspapers, minority interest publications, and/or in professional journals. Refer to [Appendix B](#) for a partial list of newspapers and minority interest publications. Agencies are encouraged to establish policies that set thresholds for formalized solicitation procedures, where applicable. State agency contract specialists experienced in personal services contracting are an excellent source of guidance.

Non-Competitive and Sole Source Procurement

Reasons to use a non-competitive process include:

A competitive procurement is not required. Sometimes contract managers choose to conduct a competitive procurement merely because “it has always been done that way.” While this may be a safe strategy, it may not be the best decision for your program. Agencies have a duty under the Governor’s Executive Order 97-03 on Quality Improvement to “improve the quality, efficiency, and effectiveness of the public services it provides through quality improvement, business process redesign, employee involvement, and other quality improvement techniques”. Contract managers should consider whether conducting a solicitation is the best approach, given the circumstances.

A competitive procurement takes time. Depending upon complexity, a competitive procurement can take from two weeks to three months. The clients’ needs may require more immediate attention.

A competitive procurement can be expensive. A competitive procurement consumes staff time. Contract managers have to manage the competitive procurement process. Other staff, including support staff, management, and program managers involved in the process should also be considered as part of the cost. Other costs include advertising, copying, mailing, and travel. The process is also expensive for contractors. Preparing and submitting a proposal takes contractor staff time and effort.

A competitive procurement can result in disruption of client care. Sometimes continuity of client care is a critical component of service delivery. Contracting with the same contractors year after year may be in the best interests of agency clients as well as the state agency.

A competitive procurement can discourage provider investment. Some services will require contractor investment in staff or other resources without compensation by state agencies. A contractor who knows that services will be competitively procured again in two years is less likely to make that investment. Hand picking contractors who are willing to make this investment in exchange for a longer-term contract may be advantageous.

Contract managers may also use sole source contracts when the client services are of such a unique nature that the contractor is clearly the only practical source of the service. Unique services would be those that are highly specialized or one-of-a-kind. Other factors that may be considered include past performance, cost effectiveness

(learning curve), and/or follow-up nature of the required services. Lack of advance planning is not a justifiable reason for a sole source decision. The contract file should document the basis for sole source award.

Screening Contractor Qualifications

Contractor screening criteria and methods will vary depending on program requirements and the type of selection process used. Using screening criteria and methods will help ensure that contractors are qualified to meet program performance expectations.

Contract managers may want to consider screening methods that provide a way to select contractors that are able to meet the following standards:

- ≠# The contractor has the appropriate experience, staffing, technical qualifications, and facilities (including any subcontractor arrangements).
- ≠# The contractor is able to comply with the proposed or required time of delivery or performance schedule.
- ≠# The contractor has adequate administrative and financial capability for performance.
- ≠# The contractor has a satisfactory record of integrity, judgment, and performance.
- ≠# The contractor is otherwise qualified and eligible to receive a contract under applicable laws and regulations.
- ≠# If the contract will be funded with federal money, the contractor cannot be on the federal suspended/debarred list, which identifies contractors who cannot be given federally funded contracts.

Licenses, Registrations, and Certifications

In most cases, contractors doing business within Washington State, whether a sole proprietor, partnership or corporation, should have a Washington business license. Additional specialty licensing, registration, or certification requirements may also be necessary, depending on the service to be delivered. Washington has a convenient, one-stop system that provides for ease of registration through a master application. Contractors may contact the Department of Licensing Master License Service office in Olympia for further information:

Department of Licensing
Master License Service
405 Black Lake Boulevard, Bldg. 2
PO Box 9034
Olympia, WA 98507-0934
Telephone: (360) 753-4401
<http://www.wa.gov/dol/bpd/buslic.htm>

Financial Stability

Prior to selection of a contractor, contract managers may want to give consideration to the contractor's financial stability. Audit reports and/or financial statements of the contractor can be obtained and reviewed to determine whether the contractor has effective financial management practices and internal controls, is in sound financial

condition, and whether audit findings, if any, have been resolved. If the audit report contains a statement indicating the scope of the audit was limited, depending on the nature of the limitation, contract managers may want to consider whether or not to contract with the entity. Certain limitations in scope could be a sign of potential problems with the contractor's ability to deliver client services. Contract managers should consult with accounting or auditing staff of the state agency and with the Office of the Attorney General for further guidance in these situations.

For further information on reading audit reports, refer to [Chapter 6 Auditing, Reading an Audit Report](#).

Contract managers may want to require contractors to disclose details of any debarment action, criminal investigation, indictment, or other litigation against the organization. In addition, some state agencies may have access to financial assessments of new contractors, which are used to evaluate their financial stability. For example, the DSHS Office of Financial Recovery has a Financial Assessment Questionnaire (refer to [Appendix C](#)). For further information about this financial assessment process at DSHS, contact the Office of Financial Recovery at (360) 664-5563.

Previous Contractual Performance

Knowledge of past performance of a contractor can enable state agencies to predict the quality and customer satisfaction of future work. Coordinating with other state agencies may be one way to obtain information. References, monitoring reports, audit reports, or evaluations are potential resources to aid examination of prior performance. Aspects of past performance that may be taken into account include:

- ## Quality of service, including compliance with contract requirements.
- ## Timeliness of performance such as adherence and responsiveness to contract schedules.
- ## Cost controls including staying within budget, and providing accurate and complete billings.
- ## Business practices and key personnel performance including the track record of the organization and its key staff, compliance with fiscal accountability requirements, and effective working relations between the contractor and the agency.
- ## Customer satisfaction.
- ## Previous contract(s) terminated for default.

Minimum/Necessary Qualifications

Minimum or necessary qualifications are determined by the state agency and program based on requirements applicable to the contracted service. Such qualifications may include:

- ## Experience providing the service and working with the target population.
- ## Staff credentials and expertise.
- ## Capabilities to meet service delivery, program management, and contract administration requirements.

- ⌘ Criminal history background clearances for individual contractors. Some contracts may require post-award background clearances.
- ⌘ Other special requirements including the ability to provide culturally relevant services, such as speaking languages other than English; physical presence or capacity to deliver services in specific geographic locations; insurance coverage; and other qualifications necessary to perform the contract according to agency specifications.